

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED

JAN 13 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Federal-State Joint Board on)
Universal Service)

CC Docket No. 96-45
DA 98-2410

To: The Common Carrier Bureau

REPLY COMMENTS OF PUERTO RICO TELEPHONE COMPANY

Puerto Rico Telephone Company ("PRTC") hereby submits replies to comments submitted regarding the Second Recommended Decision issued by the Joint Board in the referenced proceeding. Specifically, many parties endorse the hold harmless principle in accordance with the express goals of universal service. Although some commenters suggest that the Commission essentially should revoke its prior commitment that universal service high cost support to states be held at current levels, PRTC reiterates that the "hold harmless" policy should be confirmed as an essential underpinning of the federal universal service program.

I. THE HOLD HARMLESS POLICY FURTHERS THE GOALS OF UNIVERSAL SERVICE

To "hold harmless" means that no state would receive less support than it currently does under existing high cost support mechanisms. This principle is consistent with the universal service principles that "[q]uality service should be made available at just, reasonable, and affordable rates"¹ and that consumers in all regions, including rural, insular, and high cost areas,

¹ 47 U.S.C. § 254(b)(2).

0+6
No. of Copies rec'd _____
List ABCDE _____

should have access to services at reasonably comparable rates.² Any measurable reduction in support to a particular state will threaten violation of these principles. As the Joint Board acknowledged, “[i]f substantial reductions [in support] were to occur in a single year, some consumers could experience rate shock. Both significant, sudden increases in the fund size overall, and significant decreases in the support that goes to a particular carrier, could have a notable impact on consumers’ rates.”³

The Virgin Islands Telephone Company (“Vitelco”) aptly summarizes the issue addressed by the Joint Board – if support is dramatically reduced, consumers will experience increased rates.⁴ PRTC has reported previously the possible effect of the loss of USF on consumer rates, estimating that a loss in support could result in rate increases as high as 50 percent.⁵ Although many carriers may have available the option to raise rates as justified by costs in response to a change in universal service funding, this option is not a rational one in Puerto Rico. The telephone subscribership rate in Puerto Rico remains around 76 percent. Raising the rates inevitably means driving some of those subscribers off the network, contrary to the goals of universal service. In addition, the effect of any rate increase in Puerto Rico would be magnified

² 47 U.S.C. § 254(b)(3).

³ Second Recommended Decision at ¶ 51.

⁴ Vitelco at 3.

⁵ PRTC Petition for Reconsideration, CC Docket No. 96-45 (filed July 17, 1997) at 8-10; see also PRTC Comments, CC Docket Nos. 96-45 and 97-160 (filed June 1, 1998) at 3.

due to the income disparity on the island.⁶ As the Vitelco comments similarly demonstrate, the possible rate increase is not insubstantial.⁷

For the hold harmless policy to achieve its stated goal of avoiding consumer rate shock, the existing level of universal service support to states must (and does) include all components of the universal service high cost fund, including any Long Term Support (“LTS”) currently available for non-rural carriers operating in that state.⁸ LTS has been removed from interstate access charges and made a part of explicit universal service high cost support mechanisms.⁹ Because the components of existing federal high cost support mechanisms for non-rural carriers include LTS, no adjustment in the hold harmless level should be necessary for any state.¹⁰

These comments provide strong support for the Joint Board’s determination in its Second Recommended Decision to concur with the “hold harmless” principle originally espoused by the Commission in its Report to Congress. The Commission’s Report responded to a directive from Congress to report on the implementation of certain aspects of the universal service program, pursuant to Section 254 of the Communications Act and covered a variety of issues.¹¹ Of note,

⁶ The national median income is two times higher than the median income in Puerto Rico. Therefore, a rate increase in Puerto Rico would have a real impact twice that of the same increase if instituted on the mainland. See PRTC Ex Parte Presentation, CC Docket No. 96-45 (filed April 4, 1997).

⁷ Vitelco at 4 (predicting twenty-seven percent rate increases); see also Rural Telephone Coalition at 14.

⁸ National Exchange Carrier Association at 2-3 (stating that the hold harmless approach “will assure that NECA access rates will not be significantly impacted by changes in non-rural carrier support”).

⁹ Second Recommended Decision at ¶ 20.

¹⁰ See Rural Telephone Coalition at 25.

¹¹ See Report to Congress, 13 FCC 11501, 11502-503 (¶ 2) (1998).

the Commission pledged that “there is no indication that the revised universal service rules will result in a reduction in federal support from the current level.”¹² In this regard, the Commission pledged to “work to ensure that states do not receive less funding as we implement the high cost mechanisms under the 1996 Act,” finding that “no state should receive less federal high cost assistance than it currently receives.”¹³ Thus, it should be noted that the Joint Board has not changed existing policy, but simply stated its support for an existing Commission universal service policy, issued over eight months ago. PRTC reiterates that the Commission should retain this policy in furtherance of universal service goals.¹⁴

II. NO COMPELLING CHALLENGE TO THE HOLD HARMLESS PRINCIPLE HAS BEEN OFFERED

Some commenters suggest that the hold harmless principle must be phased-out according to some particular criteria.¹⁵ For example, Bell Atlantic suggests the hold harmless level should be reduced by some amount over a period of time until reduced to the proxy model-driven output.¹⁶ However, it is difficult to assess this and similar phase-out proposals when the proxy

¹² Id. at 11507 (¶ 11).

¹³ Id. at 11594 (¶ 197); see also id. at 11510 (¶ 19) and 11602 (¶ 219).

¹⁴ See also United States Telephone Association at 9 (“USTA . . . urges the Commission to retain its current hold harmless policy with regard to non-rural carriers’ universal service support.”); Virgin Islands Telephone Corporation at 3 (“The Commission should adopt this policy to the extent it has not formally done so.”).

¹⁵ See, e.g., Ameritech at 5 n.12 (suggesting a phase down of the hold harmless support level); Iowa Utilities Board at 10.

¹⁶ Bell Atlantic at 5; see also MCI WorldCom, Inc. at 17.

model amount cannot yet be calculated. Until the actual effect of any proposed phase-down are known, such an approach should not be considered.

In addition, while generally opposing the hold harmless policy, the Public Utilities Commission of Ohio recommends as an alternative that only the lesser of the current support amount or the proxy model methodology support amount.¹⁷ Adoption of this proposal, however, could still lead to rate shock for consumers due to a precipitous loss in support. The potential for and the magnitude of decreases in federal support will remain indeterminable until a model with inputs for every state has been reviewed thoroughly. Outputs by models previously under consideration, for example, virtually would have eliminated all support for Puerto Rico.¹⁸ Therefore, any consideration of adjusting or calibrating the hold harmless policy should not occur in advance of assessing and analyzing final model results.

Finally, some commenters criticize the hold harmless notion itself, arguing that it precludes changes in funding because the size of the fund has been frozen in place,¹⁹ or that it impermissibly guarantees a certain level of support for incumbent carriers.²⁰ These criticisms fail for two reasons. First, the overall size of the fund in relationship to the current fund size remains unknown until the methodology and model (if required according to the methodology) is determined.²¹ Second, because all universal service support is portable, no particular carrier is

¹⁷ Public Utilities Commission of Ohio at 5.

¹⁸ See also Vitelco at 5-6 (describing the failure of models to reflect the cost of providing services to insular areas facing unique high costs).

¹⁹ District of Columbia Public Service Commission at 5; Harris, Skrivan & Associates at 5.

²⁰ See Joint State Commissions' Comments at 7-9.

²¹ Second Recommended Decision at ¶ 47 (noting that "[f]inalization of the method [for calculating federal support for high cost areas] will determine the overall size of federal support (continued...)

guaranteed any level of funding.²² It is the state and its consumers that receive the ultimate protection under the hold harmless policy, and this is a suitable outcome for the universal service program.

In the absence of “hold harmless,” however, PRTC continues to urge the Commission to treat similarly carriers serving insular areas and rural carriers, such that insular carriers will not be transitioned to a universal service methodology whereby support is determined by results generated by a proxy model until it can be determined that the model accurately predicts a carrier’s cost of serving the area. In any event, carriers serving insular areas should not be transitioned to a proxy model methodology before it can be determined that such a methodology accurately predicts the support required to provide universal service.

(..continued)

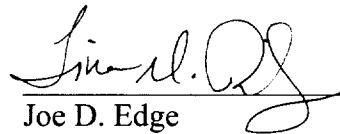
for reasonably comparable rates”); see also Arkansas Public Service Commission, et al. at 4-5 (setting forth requirements prior to the establishment of a proper fund size).

²² Second Recommended Decision at n.56.

III. CONCLUSION

For these reasons, PRTC urges the Commission to maintain its pledge that no state should receive less federal universal service support than under the current fund mechanism. In this manner, the Commission will affirm the "hold harmless" principle as a touchstone of the universal service program. In addition, this principle will be especially important to uphold until it can be determined that any proxy model employed to determine USF distributions accurately predicts the support required to provide universal service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Tina M. Pidgeon", is written over a horizontal line.

Joe D. Edge
Tina M. Pidgeon
DRINKER BIDDLE & REATH LLP
901 15th Street, N.W.
Suite 900
Washington, D.C. 20005
(202) 842-8800

Attorneys for
PUERTO RICO TELEPHONE COMPANY

Dated: January 13, 1999

CERTIFICATE OF SERVICE

I, Dottie E. Holman, do hereby certify that a copy of the foregoing was sent by hand-delivery and first-class mail, as indicated, this 13th day of January, 1999, to the following:

The Honorable Susan Ness, Chair
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

The Honorable Patrick H. Wood, III
Commissioner
Texas Public Utility Commission
1701 North Congress Avenue
Austin, Texas 78711-3326

The Honorable Harold Furchtgott-Roth
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

James Casserly
Federal Communications Commission
Commissioner Ness's Office
1919 M Street, N.W., Room 832
Washington, D.C. 20554

The Honorable Gloria Tristani
Commissioner
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

Paul Gallant
Federal Communications Commission
Commissioner Tristani's Office
1919 M Street, N.W., Room 826
Washington, D.C. 20554

The Honorable Julia Johnson
State Chair
Chairman
Florida Public Service Commission
2540 Shumard Oak Boulevard
Gerald Gunter Building
Tallahassee, Florida 32399-0850

Kevin Martin
Federal Communications Commission
Commissioner Furchtgott-Roth's Office
1919 M Street, N.W., Room 802
Washington, D.C. 20554

The Honorable Laska Schoenfelder
Commissioner
South Dakota Public Utilities Commission
State Capitol
500 East Capitol Street
Pierre, South Dakota 57501-5070

Rowland Curry
Texas Public Utility Commission
1701 North Congress Avenue
Austin, Texas 78701

The Honorable Martha S. Hogerty
Missouri Office of Public Council
301 West High Street, Suite 250
Truman Building
Jefferson City, Missouri 65102

Bridget Duff
State Staff Chair
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0866

Tiane Sommer
Georgia Public Service Commission
47 Trinity Avenue
Atlanta, Georgia 30334

Sheryl Todd (plus 8 copies)
Federal Communications Commission
Accounting and Audits Division
Universal Service Branch
2100 M Street, N.W., Room 8611
Washington, D.C. 20554
(via hand delivery)

Sandra Makeeff Adams
Iowa Utilities Board
350 Maple Street
Des Moines, Iowa 50319

Peter Bluhm
Vermont Public Service Board
112 State Street
Montpelier, Vermont 05620

Charles Bolle
Public Utilities Commission of Nevada
1150 East William Street
Carson City, Nevada 89701

Walter Bolter
Florida Public Service Commission
Gunter Building, Suite 270
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Carl Johnson
New York Public Service Commission
3 Empire State Plaza
Albany, New York 12223-1350

Lori Kenyon
Alaska Public Utilities Commission
1016 West 6th Avenue, Suite 400
Anchorage, Alaska 99501

Mark Long
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Doris McCarter
Ohio Public Utilities Commission
180 E. Broad Street
Columbus, Ohio 43215-3793

Philip McClelland
PA Office of Consumer Advocate
1425 Strawberry Square
Harrisburg, Pennsylvania 17120

Susan Stevens Miller
Maryland Public Service Commission
16th Floor, 6 Paul Street
Baltimore, Maryland 21202-6806

Thor Nelson
Colorado Office of Consumer Counsel
1580 Logan Street, Suite 610
Denver, Colorado 80203

Mary E. Newmeyer
Alabama Public Service Commission
100 N. Union Street, Suite 800
Montgomery, Alabama 36104

Barry Payne
Indiana Office of Consumer Counsel
100 North Senate Avenue, Room N501
Indianapolis, Indiana 46204-2208

Brad Ramsay
NARUC
1100 Pennsylvania Avenue, N.W.
Washington, D.C. 20044-0684

Brian Roberts
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, California 94102

Tom Wilson
Washington Utilities & Transportation
Commission
1300 Evergreen Park Drive, S.W.
Olympia, Washington 98504-7250

Ann Dean
Maryland Public Service Commission
16th Floor, 6 Paul Street
Baltimore, Maryland 21202-6806

David Dowds
Florida Public Service Commission
2540 Shumard Oak Boulevard
Gerald Gunter Building
Tallahassee, Florida 32399-0850

Don Darack
Indiana Office of Consumer Counsel
100 North Senate Avenue
Indianapolis, Indiana 46204-2208

Greg Fogleman
Florida Public Service Commission
2540 Shumard Oak Boulevard
Gerald Gunter Building
Tallahassee, Florida 32399-0850

Anthony Myers
Maryland Public Service Commission
6 St. Paul Street, 19th Floor
Baltimore, Maryland 21202-6806

Diana Zake
Texas Public Utility Commission
1701 N. Congress Avenue
Austin, Texas 78701-3326

Tim Zakriski
NYS Department of Public Service
3 Empire State Plaza
Albany, New York 12223

Linda Armstrong
Federal Communications Commission
CCB, Accounting and Audits Division
Universal Service Branch
2100 M Street, N.W., Room 8608
Washington, D.C. 20554

Lisa Boehley
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8924
Washington, D.C. 20554

Craig Brown
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8613
Washington, D.C. 20554

Steve Burnett
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8618
Washington, D.C. 20554

Bryan Clopton
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8615
Washington, D.C. 20554

Andrew Firth
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8400B
Washington, D.C. 20554

Irene Flannery
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8922
Washington, D.C. 20554

Lisa Gelb
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8601A
Washington, D.C. 20554

Emily Hoffnar
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8617
Washington, D.C. 20554

L. Charles Keller
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8918
Washington, D.C. 20554

Katie King
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8625
Washington, D.C. 20554

Robert Loube
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8609
Washington, D.C. 20554

Brian Millin
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8403
Washington, D.C. 20554

Sumita Mukhory
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8621
Washington, D.C. 20554

Mark Nadel
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8916
Washington, D.C. 20554

Kaylene Shannon
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8907
Washington, D.C. 20554

Richard D. Smith
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8612
Washington, D.C. 20554

Matthew Vitale
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8600
Washington, D.C. 20554

Melissa Waksman
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8914
Washington, D.C. 20554

Sharon Webber
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8920
Washington, D.C. 20554

Jane Whang
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8905
Washington, D.C. 20554

Adrian Wright
Federal Communications Commission
CCB, Accounting Policy Division
2100 M Street, N.W., Room 8614
Washington, D.C. 20554

ITS
1231 20th Street, N.W., Suite 102
Washington, D.C. 20037
(via hand delivery)

Katherine M. Harris
John P. Stanley
Wiley Rein & Fielding
Attorneys for Personal Communications
Industry Association
1776 K Street, N.W.
Washington, D.C. 20006

Angela E. Giancarlo, Esq.
Government Relations
Personal Communications Industry
Association
500 Montgomery Street, Suite 700
Alexandria, Virginia 22314-1561

Betty Montgomery
Steven T. Nourse
Public Utilities Section
Public Utilities Commission of Ohio
180 E. Broad Street, 7th Floor
Columbus, Ohio 43215

Margot Smiley Humphrey
Koteen & Naftalin, LLP
The Rural Telephone Coalition
1150 Connecticut Ave., N.W.
Suite 1000
Washington, D.C. 20036

L. Marie Guillory/Jill Canfield
NTCA
The Rural Telephone Coalition
2626 Pennsylvania Avenue, N.W.
Washington, D.C. 20037

Stuart Polikoff/Stephen Pastorkovich
OPASTCO
The Rural Telephone Coalition
21 Dupont Circle, N.W., Suite 700
Washington, D.C. 20036

Rogert M. Lynch/Roger K. Toppins
Hope Thurrott
Attorneys for SBC Communications, Inc.
One Bell Plaza, Room 3023
Dallas, Texas 75202

Jay C. Keithley
H. Richard Juhnke
Attorneys for Sprint Corporation
1850 M Street, N.W., 11th Floor
Washington, D.C. 20036-5807

Sandra K. Williams
Attorney for Sprint Corporation
4220 Shawnee Mission Parkway
Suite 303A
Westwood, Kansas 66205

Jonathan Chambers
Sprint PCS
1801 K Street, N.W., Ste. M112
Washington, D.C. 20006

Charles C. Hunter/Catherine M. Hannan
Hunter Communications Law Group
Attorneys for Telecommunications
Resellers Association
1620 I Street, N.W., Suite 701
Washington, D.C. 20006

Lawrence E. Sarjeant/Linda L. Kent/
Keith Townsend/John W. Hunter
Attorneys for the United States Telephone
Association
1401 H Street, N.W., Suite 600
Washington, D.C. 20005

Robert B. McKenna/John L. Traylor
Attorneys for U.S. West Communications,
Inc.
1020 19th Street, N.W., Suite 700
Washington, D.C. 20036

Samuel E. Ebbesen
President & Chief Executive Officer
Virgin Islands Telephone Corporation
P.O. Box 6100
St. Thomas, USVI 00801-6100

Michele C. Farquhar/David L. Sieradzki/
Ronnie London
Hogan & Hartson, L.L.P.
Attorneys for Western Wireless Corp.
555 13th St., N.W., Columbia Square
Washington, D.C. 20004-1109

Gene DeJordy
Ex. Dir. of Regulatory Affairs
Western Wireless Corporation
3650 131st Avenue, S.E., Ste. 400
Bellevue, Washington 98006

George N. Barclay
Michael J. Ettner
General Services Administration
1800 F Street, N.W., Room 4002
Washington, D.C. 20405

Michael T. Skrivan
Harris, Skrivan & Associates, LLC
8801 S. Yale, Suite 450
Tulsa, Oklahoma 74137

Myra L. Karegaines
General Counsel
Illinois Commerce Commission
160 N. LaSalle, Suite C-800
Chicago, Illinois 60601

Diane C. Munns
William H. Smith, Jr.
Iowa Utilities Board
350 Maple Street
Des Moines, Iowa 50319

David A. Irwin
Irwin, Campbell & Tannenwald, P.C.
Attorney for ITCs, Inc.
1730 Rhode Island Ave., N.W.
Suite 200
Washington, D.C. 20036-3101

Amy E. Dougherty
Kentucky Public Service Commission
730 Schenkel Lane
P.O. Box 615
Frankfort, Kentucky 40602

Bryan G. Moorhouse
Susan Stevens Miller
Maryland Public Service Commission
6 Saint Paul Street
Baltimore, Maryland 21202

Commonwealth of Massachusetts
Department of Telecommunications
and Energy
100 Cambridge Street, 12th Floor
Boston, Massachusetts 02202

Lawrence G. Malone
General Counsel
Public Service Commission
of the State of New York
Three Empire State Plaza
Albany, New York 12223-1350

Richard A. Askoff
Attorney for National Exchange
Carrier Association, Inc.
100 South Jefferson Road
Whippany, New Jersey 07981

Michael S. Pabian
Counsel for Ameritech
2000 West Ameritech Center Drive
Room 4H82
Hoffman Estates, Illinois 60196-1025

Joel B. Shifman, Esquire
Maine Public Utilities Commission
242 State Street
18 State House Station
Augusta, Maine 04333-0018

Mark C. Rosenblum/Judy Sello
AT&T
295 North Maple Avenue
Room 3245I1
Basking Ridge, New Jersey 07920

Lawrence W. Katz
Attorney for Bell Atlantic Telephone Co.
1320 North Court House Road
Eighth Floor
Arlington, Virginia 22201

M. Robert Sutherland
Richard M. Sbaratta
Attorneys for BellSouth Corporation
1155 Peachtree Street, N.E., Ste. 1700
Atlanta, Georgia 30309-3610

Robert Glass
Attorney for the Trustees of Boston
University
11 Vincent Street
Cambridge, Massachusetts 02140

Anthony M. Marquez
First Assistant Attorney General
Colorado Public Utilities Commission
1525 Sherman Street, 6th Floor
Denver, Colorado 80203

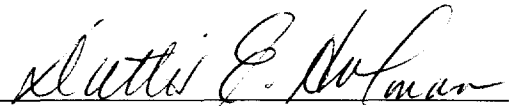
Robert J. Aamoth
Kelley Drye & Warren LLP
Attorneys for Competitive
Telecommunications
Association
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036

Genevieve Morelli
Exec. Vice President & General Counsel
Competitive Telecommunications Assn.
1900 M Street, N.W., Suite 800
Washington, D.C. 20036

Richard A. Beverly
General Counsel
Public Service Commission of
The District of Columbia
717 14th Street, N.W.
Washington, D.C. 20005

Ronald L. Ripley
Dobson Communications Corp.
13439 North Broadway Extension
Oklahoma City, Oklahoma 73114

Chuck Goldfarb
MCI WorldCom, Inc.
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006


Dottie E. Holman